

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
v.)	Crim. No. 13-10200-GAO
)	
DZHOKHAR TSARNAEV)	

GOVERNMENT’S PROPOSED JURY SELECTION PROCEDURES

The United States of America, by and through its undersigned counsel, respectfully proposes the following procedures for selecting jurors in this case. In summary, the government proposes that the Court divide the jury venire into panels sufficient to assure an adequate number of jurors for each day of jury selection, and then conduct “group” voir dire of each panel in open court, followed by individual sequestered voir dire in the jury room of each juror for whom follow-up questioning is needed. The government further proposes that the Court, rather than the parties, examine the jurors in the jury room after permitting the parties to submit follow-up questions.¹

1. On January 5, 2014, at 9:00 a.m., 200 potential jurors will gather in the Jury Assembly Room. They will be sworn, introduced to the parties and the Court, and receive preliminary instructions from the Court. Each will then be asked to complete a written questionnaire. After all questionnaires have been collected, the potential jurors will be excused and instructed to return on or after January 14 as directed by a call-in number at the Clerk’s office. Another 200 potential jurors will gather in the Jury Assembly Room at 1:00 p.m. and the

¹ Without conceding that the manner in which *other district courts* choose juries in capital cases has any legal significance here, the government, for the record, disputes Tsarnaev’s claim that the procedures he has proposed “reflect, with only minor variations, the practice in the large majority of federal courts to have conducted capital trials under the Federal Death Penalty Act of 1994, 18 U.S.C. §§ 3591 et seq.” (Def’t. Proposed Jury Selection Proc. at 1).

same procedures will be followed. This process will be repeated on the following two days with the goal of obtaining completed questionnaires from approximately 1,200 potential jurors over the course of three days.

2. Each evening the Clerk will digitally scan that day's completed questionnaires, copy them onto CD-ROM discs, and provide them to the parties by 10:00 a.m. the following morning.

3. On Monday, January 12, 2014, the parties will confer and agree on any potential jurors in the first two groups of 200 whom the parties believe should be excused for cause based on their questionnaires or on any other information known to the parties or the Court. On Tuesday, January 13, 2014, the Court will meet with the parties and review and rule upon their agreed-upon proposed strikes.

4. Beginning on January 14, 2014, the Court shall call in by juror number 50 prospective jurors in the morning and 50 in the afternoon for general voir dire on the issues normal to any criminal case, as well as supplemental voir dire on the issue of death-penalty qualification. The Court will examine the jurors as a group in open court and record the juror number of any juror(s) for whom follow-up questioning is needed. Each juror for whom follow-up questioning is needed will then be summoned to the jury room and examined by the Court in the presence of the parties. Before the juror enters the jury room, the parties will submit follow-up questions for that juror that the Court may ask if it considers them proper. After the juror has been questioned, either party may move to strike the juror for cause. This process will continue day to day until 70 potential jurors have been qualified.

5. The exercise of peremptory challenges will be by the "struck method" to ensure that the jury selection process is not marred by uncertainty. Counsel for each side will exercise

their peremptory challenges on an alternating basis until they have exhausted their allotted number and are left with a jury of twelve and six alternates.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and that paper copies will be sent to those indicated as non-registered participants on this date.

/s/ William D. Weinreb
WILLIAM D. WEINREB